REMARKS

In view of the following remarks and the foregoing amendments, reconsideration and allowance are respectfully requested.

Claims 1-31 were pending at the time of this action, with claims 1, 22, and 28 being independent. Claims 1-21 stand rejected. Claims 22-31 were withdrawn from consideration due to a restriction requirement. Claims 22-31 are currently canceled. Claims 1, 8, 15-17 are amended. Claim 32 is newly added. Therefore, claims 1-21 and 32 are currently pending and are all in condition for allowance.

Claims 1-21 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Bezos et al. (US 6,029,141) ("Bezos") in view of Walker et al. (US 6,041,308) ("Walker"), and further in view of Official Notice.

35 U.S.C. 103(a) – Claims 1-21

Regarding the rejection of claims 1-21 under 35 U.S.C. 103(a) as being unpatentable over Bezos and Walker in view of Official Notice, Applicants respectfully submit that the suggested combination does not disclose or properly suggest all of the limitations of independent claim 1. This rejection fails to establish a *prima facie* case of obviousness. In particular, the suggested combination does not teach or suggest each and every feature of the claims, and further, teaches against the claims.

For example, amended independent claim 1 recites the feature of "determining information for an amount of sales tax based on a residence or situs of an operator of the unified storefront." This amendment does not add new matter and is supported within the specification. For example, page 4, paragraph 11 of the specification states that "for purposes of sales tax determination and collection, and/or for compliance with any other laws or regulations, the unified storefront owner takes flash title at the point of sale, and thus becomes the seller of record from the buyer's perspective" (*also see, e.g.*, paragraphs 44-45 of specification).

Page 3, lines 7-16 of the Office Action asserts that the Examiner's Official Notice allegedly discloses "taking flash title to the purchased item prior to fulfilling the buyer's order"

of claim 1, and points to paragraph 43 of the specification support for this Official Notice. However, even assuming for the sake of response that this assertion is correct, Applicant submits that Official Notice does not disclose or properly suggest, "determining information for an amount of sales tax based on a residence or situs of an operator of the unified storefront," as recited in independent claim 1. The suggested combination is silent on teaching or properly suggesting this feature. Hence, the rejection to claim 1 should be withdrawn, and claim 1 should be allowed for this reason alone.

Furthermore, claim 1 is patentable at least because the suggested combination would teach against this amended feature of claim 1. For example, the following are well known in the relevant art: (1) sales tax is not determined by the residence or situs of the delivery agents; and (2) sales taxes are based on the residence or situs of the seller and not the residence or situs of the connection provider. Since the storefront operator would have to keep track of multiple merchants' states of residences, this process would complicate the sales tax determination and collection, as described in the specification on paragraphs 44-45. Claim 1 recites techniques to avoid such complications.

For example, USPN 6,029,141 is a patent to Jeffrey P. Bezos et al. at Amazon.com, Inc. Even though the Bezos patent is silent in regards to taxes, it is well known that Amazon's Marketplace does not determine taxes for buyers and sellers. Under the "Participation Agreement" of Amazon Marketplace, it states:

> 10. Sales, Use, or Similar Taxes. You agree that it is the Seller's and the Buyer's responsibility to determine whether sales, use, or similar taxes apply to the transactions and to collect, report, and remit the correct tax to the appropriate tax authority. **You also agree that Amazon is not obligated to determine whether sales, use, or similar taxes apply and is not responsible to collect, report, or remit any sales, use, or similar taxes arising from any transaction.** (emphasis added. *See, e.g.,* http://www.amazon.com/gp/help/customer/display.html/002-5582521-

1516869?ie=UTF8&nodeId=1161302&qid=1184600773&sr=2-1 item #10).

In another example, USPN 6,041,308 is a patent to Walker et al. of Priceline.com. Even though the patent to Walker is silent as to taxes, it is well known that Priceline.com does not determine taxes based on the residence or situs of Priceline.com, but the residence or situs of the vendor.

For example, in regards to rental cars, Priceline.com states the following:

"**We are not the vendor collecting and remitting taxes to the applicable taxing authorities.** The rental car companies, as vendors, bill all applicable taxes to us and we pay over such amounts directly to the vendors. We are not a co-vendor associated with the vendor with whom we reserve our customer's travel arrangements. **Taxability and the appropriate tax rate and the type of applicable taxes vary greatly by location.**" (Emphasis added, *See. e.g.*, www.priceline.com and select "terms and conditions").

For at least these reasons, Applicants submit that independent claim 1, along with its dependent claims 2-21, are allowable over the suggested combination of Bezos, Walker, and Official Notice.

Improper Official Notice

Even though amended claim 1 is patentable over the suggested combination of Bezos, Walker, and Official Notice, Applicants contend that an assertion used to support the rejection to claim 1 was not properly officially noticed. The office action stated that "Official Notice is taken that it is old and well known in the art for a third party (e.g., connection provider or delivery agent) to assume legal title for a product from the point of sale to the time the order is fulfilled (i.e. delivered)" (Office action: page 3). However, as stated in MPEP §2144.03, "it would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable

demonstration as being well-known." There were no prior art references shown to support the factual allegations of the Official Notice. Hence, even without the amendments to claim 1, the rejection to claim 1 under 35 U.S.C. 103(a) should be withdrawn for this additional reason.

Claim 32

Claim 32 is a newly-added claim. No new matter has been added. The subject matter of claim 32 is supported within the specification (*see, e.g.*, specification: page 4, paragraph 11; p. 14-15, paragraphs 44-45; Fig. 5; p. 20-21, paragraphs 58-62). Applicants ask that claim 32 be allowed.

In Conclusion

In view of the amendments and remarks herein, the Applicants believe that Claims 1-21 and 32 are in condition for allowance and ask that these pending claims be allowed. The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claims or other claims.

No fee is believed due at this time. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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